

**ASSEMBLY BILL**

**No. 147**

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**Introduced by Assembly Member Dickinson**

January 14, 2011

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An act to amend Section 66484 of the Government Code, relating to subdivisions.

LEGISLATIVE COUNSEL'S DIGEST

AB 147, as introduced, Dickinson. Subdivisions.

The Subdivision Map Act authorizes a local agency to require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges or major thoroughfares if specified conditions are met.

This bill would authorize the fee to additionally be used for defraying the actual or estimated cost of other transportation facilities, as described.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 66484 of the Government Code is  
2     amended to read:  
3     66484. (a) A local ordinance may require the payment of a  
4     fee as a condition of approval of a final map or as a condition of  
5     issuing a building permit for purposes of defraying the actual or  
6     estimated cost of constructing bridges over waterways, railways,  
7     freeways, and canyons, ~~or~~ constructing major thoroughfares, *or*

1 *constructing other transportation facilities, including, but not*  
2 *limited to, pedestrian, bicycle, transit, and traffic-calming facilities.*  
3 The ordinance may require payment of fees pursuant to this section  
4 if all of the following requirements are satisfied:

5 (1) The ordinance refers to the circulation element of the general  
6 plan and, ~~in the case of bridges, to the transportation or flood~~  
7 ~~control provisions thereof that identify railways, freeways, streams,~~  
8 ~~or canyons for which bridge crossings are required on the general~~  
9 ~~plan or local roads and in the case of major thoroughfares, to the~~  
10 ~~provisions of the circulation element that identify those major~~  
11 ~~thoroughfares whose primary purpose is to carry through traffic~~  
12 ~~and provide a network connecting to the state highway system, if~~  
13 the circulation element, transportation, or flood control provisions  
14 have been adopted by the local agency 30 days prior to the filing  
15 of a map or application for a building permit.:

16 (A) *In the case of bridges, to the transportation or flood control*  
17 *provisions thereof that identify railroads, freeways, streams, or*  
18 *canyons for which bridge crossings are required on the general*  
19 *plan or local roads.*

20 (B) *In the case of major thoroughfares, to the provisions of the*  
21 *circulation element that identify those major thoroughfares whose*  
22 *primary purpose is to carry through traffic and provide a network*  
23 *connecting to the state highway system.*

24 (C) *In the case of other transportation facilities, to the*  
25 *provisions of the circulation element that identify those*  
26 *transportation facilities that are required to minimize the use of*  
27 *automobiles and minimize the traffic impacts of new development*  
28 *on existing roads.*

29 (2) The ordinance provides that there will be a public hearing  
30 held by the governing body for each area benefited. Notice shall  
31 be given pursuant to Section 65091 and shall include preliminary  
32 information related to the boundaries of the area of benefit,  
33 estimated cost, and the method of fee apportionment. The area of  
34 benefit may include land or improvements in addition to the land  
35 or improvements that are the subject of any map or building permit  
36 application considered at the proceedings.

37 (3) The ordinance provides that at the public hearing the  
38 boundaries of the area of benefit, the costs, whether actual or  
39 estimated, and a fair method of allocation of costs to the area of  
40 benefit and fee apportionment are established. The method of fee

1 apportionment, in the case of major thoroughfares, shall not provide  
2 for higher fees on land that abuts the proposed improvement except  
3 where the abutting property is provided direct usable access to the  
4 major thoroughfare. A description of the boundaries of the area of  
5 benefit, the costs, whether actual or estimated, and the method of  
6 fee apportionment established at the hearing shall be incorporated  
7 in a resolution of the governing body, a certified copy of which  
8 shall be recorded by the governing body conducting the hearing  
9 with the recorder of the county in which the area of benefit is  
10 located. The apportioned fees shall be applicable to all property  
11 within the area of benefit and shall be payable as a condition of  
12 approval of a final map or as a condition of issuing a building  
13 permit for the property or portions of the property. Where the area  
14 of benefit includes lands not subject to the payment of fees pursuant  
15 to this section, the governing agency shall make provision for  
16 payment of the share of improvement costs apportioned to those  
17 lands from other sources.

18 (4) The ordinance provides that payment of fees shall not be  
19 required unless the major thoroughfares are in addition to, or a  
20 reconstruction of, any existing major thoroughfares serving the  
21 area at the time of the adoption of the boundaries of the area of  
22 benefit.

23 (5) The ordinance provides that payment of fees shall not be  
24 required unless the planned bridge facility is an original bridge  
25 serving the area or an addition to any existing bridge facility  
26 serving the area at the time of the adoption of the boundaries of  
27 the area of benefit. The fees shall not be expended to reimburse  
28 the cost of existing bridge facility construction.

29 (6) The ordinance provides that if, within the time when protests  
30 may be filed under the provisions of the ordinance, there is a  
31 written protest, filed with the clerk of the legislative body, by the  
32 owners of more than one-half of the area of the property to be  
33 benefited by the improvement, and sufficient protests are not  
34 withdrawn so as to reduce the area represented to less than one-half  
35 of that to be benefited, then the proposed proceedings shall be  
36 abandoned, and the legislative body shall not, for one year from  
37 the filing of that written protest, commence or carry on any  
38 proceedings for the same improvement or acquisition under the  
39 provisions of this section.

1 (b) Any protest may be withdrawn by the owner protesting, in  
2 writing, at any time prior to the conclusion of a public hearing held  
3 pursuant to the ordinance.

4 (c) If any majority protest is directed against only a portion of  
5 the improvement, then all further proceedings under the provisions  
6 of this section to construct that portion of the improvement so  
7 protested against shall be barred for a period of one year, but the  
8 legislative body may commence new proceedings not including  
9 any part of the improvement or acquisition so protested against.  
10 Nothing in this section prohibits a legislative body, within that  
11 one-year period, from commencing and carrying on new  
12 proceedings for the construction of a portion of the improvement  
13 so protested against if it finds, by the affirmative vote of four-fifths  
14 of its members, that the owners of more than one-half of the area  
15 of the property to be benefited are in favor of going forward with  
16 that portion of the improvement or acquisition.

17 (d) Nothing in this section precludes the processing and  
18 recordation of maps in accordance with other provisions of this  
19 division if the proceedings are abandoned.

20 (e) Fees paid pursuant to an ordinance adopted pursuant to this  
21 section shall be deposited in a planned bridge facility ~~or~~, major  
22 thoroughfare, *or transportation facility* fund. A fund shall be  
23 established for each planned bridge facility project ~~or~~, each planned  
24 major thoroughfare project, *or each planned transportation facility*  
25 *project*. If the benefit area is one in which more than one bridge  
26 ~~or~~, major thoroughfare, *or other transportation facility* is required  
27 to be constructed, a fund may be so established covering all of the  
28 bridge ~~and~~, major thoroughfare, *and other transportation facility*  
29 projects in the benefit area. Money in the fund shall be expended  
30 solely for the construction or reimbursement for construction of  
31 the improvement or improvements serving the area to be benefited  
32 and from which the fees comprising the fund were collected, or to  
33 reimburse the local agency for the cost of constructing the  
34 improvement or improvements.

35 (f) An ordinance adopted pursuant to this section may provide  
36 for the acceptance of considerations in lieu of the payment of fees.

37 (g) A local agency imposing fees pursuant to this section may  
38 advance money from its general fund or road fund to pay the cost  
39 of constructing the improvements and may reimburse the general  
40 fund or road fund for any advances from planned bridge facility

1 ~~or~~, major thoroughfares, *or other transportation facility* funds  
2 established to finance the construction of those improvements.

3 (h) A local agency imposing fees pursuant to this section may  
4 incur an interest-bearing indebtedness for the construction of bridge  
5 facilities~~or~~, major thoroughfares, *or other transportation facilities*.  
6 However, the sole security for repayment of that indebtedness shall  
7 be moneys in planned bridge facility~~or~~, major thoroughfares, *or*  
8 *transportation facility* funds.

9 (i) (1) The term “construction,” as used in this section, includes  
10 design, acquisition of rights-of-way, administration of construction  
11 contracts, and actual construction.

12 (2) The term “construction,” as used in this section, with respect  
13 to the unincorporated areas of San Diego County and Los Angeles  
14 County only, includes design, acquisition of rights-of-way, and  
15 actual construction, including, but not limited to, all direct and  
16 indirect environmental, engineering, accounting, legal,  
17 administration of construction contracts, and other services  
18 necessary therefor. The term “construction,” with respect to the  
19 unincorporated areas of San Diego County and Los Angeles County  
20 only, also includes reasonable administrative expenses, not  
21 exceeding three hundred thousand dollars (\$300,000) in any  
22 calendar year after January 1, 1986, as adjusted annually for any  
23 increase or decrease in the Consumer Price Index of the Bureau  
24 of Labor Statistics of the United States Department of Labor for  
25 all Urban Consumers, San Diego, California (1967 = 100), and  
26 Los Angeles-Long Beach-Anaheim, California (1967 = 100),  
27 respectively, as published by the United States Department of  
28 Commerce for the purpose of constructing bridges~~and~~, major  
29 thoroughfares, *and other transportation facilities*. “Administrative  
30 expenses” means those office, personnel, and other customary and  
31 normal expenses associated with the direct management and  
32 administration of the agency, but not including costs of  
33 construction.

34 (3) The term “construction,” as used in this section, with respect  
35 to Los Angeles County only, shall have the same meaning as in  
36 paragraph (2) in either of the following circumstances:

37 (A) The area of benefit includes, and all of the bridge~~and~~, major  
38 thoroughfare, *and other transportation facility* project  
39 improvements lie within, both a city or a portion of a city and  
40 adjacent portions of unincorporated area.

1 (B) All of the area of benefit and all of the bridge-and, major  
2 thoroughfare, *and other transportation facility* project  
3 improvements lie completely within the boundaries of a city.

4 (j) Nothing in this section precludes a county or city from  
5 providing funds for the construction of bridge facilities-or, major  
6 thoroughfares, *or other transportation facilities* to defray costs not  
7 allocated to the area of benefit.